

**IN THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION**

UNITES STATES OF AMERICA	)	
	)	CASE NO. 3:05-CR-234-A
v.	)	
	)	
TYRONE WHITE	)	

**MOTION FOR EXTENSION OF TIME TO FILE BRIEF**

COMES NOW the defendant, Tyrone White, by and through his undersigned counsel, and respectfully moves this Court for an extension of time in which to file his brief in support of his *Motion to Dismiss Indictment and for Sanctions* (Doc. 39). Specifically, the defendant requests that his brief be due five business days from the receipt of the transcript of the November 30, 2005, proceedings, but no sooner than January 6, 2005. In support of this motion, the defendant says:

1. This Court granted an evidentiary hearing on the defendant's *Motion to Dismiss Indictment and for Sanctions* (Doc. 39). The Court heard evidence on three separate days: November 30, 2005; December 7, 2005; and December 9, 2005. At the conclusion of the evidence, the Court set a briefing schedule in its *Order* (Doc. 94), with the defendant's brief due on December 28, 2005, and with the government's brief due January 17, 2006.

2. Each of the three days of the evidentiary hearing was transcribed by a different court reporter. The undersigned has not yet received the transcript for the first day of the hearing, November 30, 2005, although requested from the court reporter, Mitchell Reisner. The undersigned has made numerous unsuccessful attempts to contact

Mr. Reisner, in order to ascertain the status of our request, all of which have been unsuccessful.

3. Only this morning, Mr. Reisner informed Allison Highley that he is working on the transcript now, but he will not be able to complete the transcript sooner than December 30, 2005, due to a family emergency, and that the transcript may not be completed until after the end of next week.

4. The testimony on that first day was very important, as evidenced by the lengthy duration of examinations of each witness, all key witnesses for the defense. Having available the verbatim transcription of proceedings is essential to preparing an accurate brief with citations that would be helpful to the Court in its deliberations.

5. Further, the defendant will be at a distinct disadvantage if this Court does not grant an extension, because the government will almost certainly have the subject transcript in time to prepare its brief. The issues presented by this motion are serious and could result in dismissal of this case. The defendant should be afforded fair opportunity to carefully and accurately prepare his brief before submitting it to the Court.

6. Finally, a short extension will not prejudice the government or the Court. The defendant is only requesting five additional business days from his receipt of the transcript. The defendant appreciates the considerable time and effort required for the Court to consider the issues before it. Even if the Court extends the time allowed for the government's response brief by the same number of days as the defendant requests, the Court will have both briefs before it for consideration by early February.

WHEREFORE, for the reasons set forth above, the defendant respectfully prays this Honorable Court will extend the deadline for the defendant to submit his brief,

allowing him until January 6, 2005, or five business days from his receipt of the transcript of the November 30, 2005, portion of the hearing, whichever date is later.

RESPECTFULLY SUBMITTED this 22th day of December 2005.

TYRONE WHITE  
Defendant

/s/ Julian L. McPhillips, Jr.  
JULIAN L. MCPHILLIPS, JR.  
Alabama Bar No. MCP004

/s/ Allison H. Highley  
ALLISON H. HIGHLEY  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to:

Todd A. Brown, Esq.  
Assistant United States Attorney  
Post Office Box 197  
Montgomery, Alabama 36101

/s/ Allison H. Highley  
ALLISON H. HIGHLEY